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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,620	10/23/2001	David A. Poindexter	076437-9013-01	1157

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/001,620

Applicant(s)

POINDEXTER ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3,4,6,7,9,13,14,19-21 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,4,6,7,14,19-21 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on October 27, 2003. Claim 13 recites the function of operating the winch in both directions while the specification has the embodiment of figure 3 with a gravity return. It is noted that the amendment filed October 14, 2004 did not include a listing of the claims that read on the elected species. To be fully responsive any subsequent amendments must include such a listing.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

3. Claims 3, 4, 6, 7, 9, 20 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Masse in view of McKee. Masse shows a transport accessory for a vehicle comprising:

- a base frame having two support members (14)
- a second frame having two extension members (36) with guide rollers (62);
- a carriage (16) pivotally connected to the second frame having at least one arm (a mount of pulleys 64),
- a transport support (18); and
- a drive assembly (24) with a cable coupled to the carriage (16) which retracts and pivots the carriage.

Masse varies from the claims not having a track on transport support (18) which moves on rollers on the extension members (36). McKee shows a similar transport support (1) which slides on rollers spaced along the length of its support members, see figure 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the transport accessory of Masse by providing its supports (14 and 36) with rollers, to guide and support the transport support (18) during loading, as taught by McKee. Having the winch as an electric winch, as recited in claims 4 and 7, would have been an obvious design expedient, within the level of routine skill in the art at the time the invention was made by applicant. One method of use would be as recited in claim 9. The carriage (16) moves between substantially parallel positions and inclined positions, as recited in claim 20 and contacts rollers on each side arm, as recited in claim 21.

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4. Claim 14 is are rejected under 35 U.S.C. § 103(a) as being unpatentable over Masse in view of McKee, as applied above to claim 6, and further in view of Dixon et al. Masse, as modified, shows the basic claimed transport accessory, but varies from claim 19 by not having a ground roller. Dixon et al shows a similar transport support with a ground roller (150). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the transport accessory of Masse by providing the transport support (18) with a ground roller, as to have it moving smoothing over the ground, as taught by Dixon et al.

5. Claim 19 is are rejected under 35 U.S.C. § 103(a) as being unpatentable over Masse in view of McKee, as applied above to claim 6, and further in view of Prince. Masse, as modified, shows the basic claimed transport accessory, but varies from claim 19 by not showing the details of the base frame as to have it mounted to the vehicle with fasteners. Prince shows a similar frame with fasteners (94). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the transport accessory of Masse by forming its base member as removable rails with fasteners, for easy assembly and disassembly from the vehicle, as taught by Prince.

6. Claim 27 is are rejected under 35 U.S.C. § 103(a) as being unpatentable over Masse in view of McKee, as applied above to claims 1 and 6, and further in view of Mauck. Masse, as modified, shows the basic claimed transport accessory, but varies from claim 27 by not having a locking winch. Mauck shows a similar transport apparatus with a locking winch, see column 6, liens 9 and 10. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the transport accessory of Masse by providing the winch with a lock, to have it hold the load in place, as taught by Mauck.

7. Applicant's argues in the amendment filed October 14, 2004 that the drive arrangement of figure 3, the elected species, has the drum feature of being operative in both directions, however this is language specific to another embodiment, not the gravity return winch of elected species. It is noted that this claim could be rejected along with claims 3 and 6 in paragraph five above. The remaining remarks have been considered, but are deemed moot in view of the above new rejections. The amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan  
Primary Examiner  
Art Unit 3652